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NEWSLETTER
OF THE
OPTOMETRIC HISTORICAL SOCIETY
(243 North Lindbergh Boulevard, St. Louis, Missouri 63141, U.S.A.)

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Call for nominations:

Our by-laws state, "Election to membership on the Executive Board shall be preceded by the nomination of each candidate by at least three members and the willingness of each nominee to have his name placed on the ballot."

The board member whose term will expire this year, December 31, 1980 is Maria Dablemont. Nominations for her continuation or replacement for a five year term are hereby requested for placement on the ballot in October.

By all means do not hesitate to nominate yourself as a candidate if such responsibility challenges you. Remember, self-nominated volunteers founded the O.H.S., and unpaid volunteers have kept it going.

Nominations should be submitted to Henry Hofstetter or Douglas Penisten c/o Indiana University School of Optometry, Bloomington, IN 47405.

The British College of Ophthalmic Opticians

In the October 1977 issue of the Newsletter it was announced that the formation of the College of Ophthalmic Opticians was soon forthcoming. The following bulletin has been distributed by the College to formally announce that as of March 1, 1980, the British College of Ophthalmic Opticians officially exists.

The Ophthalmic Optical profession is delighted to announce the advent of the British College of Ophthalmic Opticians which came into being on March 1st, 1980.

The most important immediate advantage of the College is the formation of a single examining body for Ophthalmic Opticians in place of the three which existed formerly, namely, The British Optical Association, The Scottish Association of Opticians and The Worshipful Company of Spectacle Makers. It is also anticipated that a single body speaking with one voice will have considerably more professional influence.

OBJECTS OF THE COLLEGE

The objects of the College as laid down in the Memorandum can be summarised as being 'to act as a professional and educational body for the furtherance of the interests of ophthalmic optics and the wellbeing and welfare of patients'.

STRUCTURE OF THE COLLEGE

Already the College has an Academic Committee, an Executive Committee, a Finance Committee and a Professional Standards Committee.

OFFICERS OF THE COLLEGE

The Officers of the College are - President, P.J. Cole; Vice-President, K.A. Harwood; Treasurer, R.B. Thorpe; Executive Secretary, C.J. Eldridge; Academic Secretary, P.A. Smith; Scottish Secretary, J.C. Neil

The future in reverse:

The program of the 53rd Congress of the International Optometric and Optical League held in Nagoya, Japan, featured a two-hour session on "The Future of Optometry" on the closing date of May 30. The selected panel speakers were H. Barry Collin (Australia), Theo Gumpelmayer (Austria), Rudi Arnold (West Germany), Theophilus Kpabitey (Ghana), K. Morie (Japan), Per Soderberg (Sweden), Gerald Dunn (England), and Ron Fair (U.S.A.), with Herbert L. Moss (U.S.A.) presiding. Approximately three hundred attended.

Most interesting was the fact that virtually 99% of the discourse dealt with history!

Early Indiana organization data:

Five volumes of early ledger records were recently received from the headquarters of the Indiana Optometric Association. Their variety of entries range from December 10, 1896 to February 15, 1944.

The five entries dated December 10, 1896, are identified as initiation fees of five dollars each for I.M. Rowe (Indianapolis), Ed Shipley (Greencastle), John Wimmer (Indianapolis). During January, 1897, twenty-seven more paid in their five dollar initiation fees, and six more during February and March. There the treasury seemed to remain fixed until January 1, 1901, when \$1.25 was spent on stamps. The treasurer during this period was I.M. Rowe. On January 29, 1901, some renewal membership fees of \$2.00 each were collected, as were some new-member initiation fees of \$5.00. The beginning name of the organization was the Indiana Optical Society.

These records, written in longhand, are remarkably legible and contain many incidental bits of information, not exactly meaningful but nevertheless fascinating. They are being forwarded to the International Library, Archives, and Museum of Optometry, Inc.

Two brief historical sketches:

The March-April 1980 issue of the East German publication *Augenoptik*, Vol. 97, no. 2, features a historical note concerning Isaac Newton (1643-1727) on the inside front cover, including illustrations of Newton's portrait and of an artist's conception of Trinity College at Cambridge, where Newton enrolled as a student and later succeeded his mentor I. Barrow.

The note credits the poet Alexander Pope as saying (translated from the German) "Nature and her laws lay concealed in darkness. Then God spoke, 'Let there be Newton!', and all became clear."

The same issue, pages 40-45, includes an article "Zur Geschichte des ophthalmoskopischen Gerätebaus" (On the History of Ophthalmoscopic Instrument Making) by Peter Wengler of Jena. Among the illustrated instruments are von Graefe's version of Helmholtz's ophthalmoscope, a 1911 Gullstrand ophthalmoscope, a 1929 polyophthalmoscope for nine simultaneous observers, a 1901 retinal camera by Dimmer, a 1925 Nordenson retinal camera with arc lamp, and a 1930 parallaxic refractometer.

Correction and amplification:

If history buffs have any single characteristic in common, it must be the urge to keep the record straight, and, to that end, to check each other for accuracy. So our attention was called, but most delightfully, to the erroneous assumption in the last paragraph of our January issue that the title of an article in the Australian Journal of Optometry was "Sixty Years of Optometry." It turns out, writes Charles Wright, the author, that this is the title of a continuing series of articles, and that the title for this fifth single installment, in less conspicuous type, is "Journals and Newsletters." The previous installments, all in 1979, writes he, are as follows:

1. The Origin and Constitution of the Australian Optometrical Association, Vol. 62, no. 1, pp. 20-23.
2. Optometric Education in Australia, Vol. 62, no. 3, pp. 108-113.
3. Optometric Legislation, Vol. 62, no. 4, pp. 158-160.
4. The National Health Act, Vol. 62, no. 5, pp. 203-209.

Inconveniently, the volume 62 issues have been removed from our library to be sent to the bindery just a few days before Mr. Wright's letter arrived, so a possible review of these will have to await the return of the bound volume, a process which takes interminably longer than can seem possible.

In the same letter, however, our attention is called to an earlier article in the same journal entitled, "Co-operation with Ophthalmology in Queensland 1910-17" in the June 1978 issue, Vol. 61, no. 6, pages 209-214. Of incidental interest in his article is a preliminary parenthetical comment to remind the reader that although "optometrist" and "ophthalmologist" are used throughout the article, the respectively synonymous terms in general use in 1910-17 were "optician" and "oculist".

A large share of the information was derived from Hansard, Queensland Parliament.

Punktal history

"Entwicklung der Punktalbrillenglaser" (Evolution of Punktal ophthalmic lenses) is the title of an article by W. Horichs of Jena, East Germany, in the January-February, 1980, issue of Augenoptik, Vol. 97, no. 1, pages 3-6. The author traces ophthalmic lens development from the origin of spectacles and identifies seven contributors to Punktal technology, Johann Heinrich August Dunker (1767-1843), Moritz von Rohr (1868-1940), Allvar Gullstrand (1862-1940), Otto Henker (1874-1926), Hans Boegehold (1876-1965), Rudolf Lincke (1883-1960), and Hermann Pistor (1875-1951), with a portrait of each.

Looking backward and forward

LOOKING BACKWARD - LOOKING FORWARD 1904-1979 is the title of a richly assembled 64 page 18 x 28 cm historical booklet published by the Southern California College of Optometry to commemorate its 75 years of existence. The institution was started as the Los Angeles Medical School of Ophthalmology and Optometry in 1904 and underwent several subsequent name and location changes.

The booklet is profusely illustrated with contemporary photographs for each of several separately described significant periods of the college's history.

Magnifier lamp

A news release from AN-BEU-WIS ASSOCIATES, Inc., 120 W. Palisades Blvd., Palisades Park, New Jersey 07650, advertises their "BIG EYE", a high intensity floor model lamp with an attached 13 cm magnifying lens for stamp and coin collectors, hobbyists, et al.

Ophthalmic Museum

An Ophthalmic Museum is the title of a three part article by Anthony Sabell of the Department of Ophthalmic Optics at the University of Aston in Birmingham, England, which appeared in The Contact Lens Journal. Each article (Jan., Feb., March 1980) covers different items in the University of Aston collection which chronologically relate to the development of contact lens fitting. Plentiful photographs of turn-of-the-century ophthalmic instruments and contact lenses add much to the historical discussion.

Optometry in Puerto Rico

Ramon Pacheco II and Sixto Pacheco III have forwarded an historical summary of Optometry in Puerto Rico written by Antonio Pacheco II. It is especially valuable for its conciseness.

LEGAL AND ACADEMIC ASPECTS OF OPTOMETRY IN PUERTO RICO 1493-1980

Columbus discovered Puerto Rico for Spain in 1493 and we had a Spanish-Puerto Rican Government for 405 years until 1898 when the USA-Puerto Rican Government was established in Puerto Rico. Optometry did not exist under the Spanish-Puerto Rican Government and as of today, Optometry does not exist in Spain. The existence of Optometry in Puerto Rico is due to our relationship with the United States of America since 1898 and all the optometrists authorized to practice in Puerto Rico by law since 1909 are graduates of USA Optometric Schools. The Academic Development of Optometry in Puerto Rico is the same as in the United States of America in the last 82 years from 1898 to 1980.

The Treaty of Paris ended the Spanish-American War in December 10, 1898 by which Puerto Rico became part of the United States of America. The Civil USA-Puerto Rican Government was established in 1900 and this government approved a law creating the first Medical Board of Examiners in March 12, 1903. The Medical Law of 1903 did not have any provision dispensing health professionals that were practicing in Puerto Rico without a license before the approval of the law in 1903 (Grandfather Clause). This law did contain a disposition dispensing the health professionals that had a license and were legally authorized to practice their profession in Puerto Rico by the Spanish-Puerto Rican Government before 1898.

The first application to practice Optometry in Puerto Rico was submitted to the Board of Medical Examiners by doctor Antonio Pacheco I the 24th of November of 1908 and the first optometric license was issued in April 15, 1909 to doctor Antonio Pacheco I after meeting the following legal and academic requirements of Section 3 of Medical Law of March 12, 1903:

Every person hereinafter wishing to practice medicine or surgery, or any of the branches thereof or midwifery in any of their departments in this Island, shall apply to said Board for a certificate or license so to do. Applications from said candidates shall be in writing and accompanied by proof that the applicant is a graduate of a school or institution in good standing and legally organized, and duly approved by the said Board of Examiners; if the diploma is found genuine, which fact said Board of Examiners shall determine, and if the person presenting and claiming said diploma be the person to whom the same was originally granted, at a time and place designated by said Board, or at a regular meeting of said Board, said applicant shall be required to take an examination.

The original examinations and the original answers of that first optometric examination to doctor Antonio Pacheco I in 1909 are carefully preserved in the Optometric Archives and Historical Museum of Puerto Rico. Doctor Antonio Pacheco I was also the first Puerto Rican Optometrist to obtain a license to practice in the United States of America in the State of New York in 1926 after a previous written and practical examination. He practiced in New York City until his death in 1945.

Only one optometrist was legally authorized to practice in Puerto Rico from 1903 to 1911. The Government of Puerto Rico conscious of the Optometric Profession, after the first optometric license was issued in 1909, and of future candidates to practice Optometry, made an amendment to Section 3 of Medical Law of March 12, 1903; quoted in the previous page, to include the Optometrists by Medical Law 79 of March 9, 1911 as follows:

Be it enacted by the Legislative Assembly of Puerto Rico: Section 1 - That Section 3 of an Act entitled "An Act providing for the organization of a Board of Medical Examiners" approved March 12, 1903, be and is hereby amended so as to read as follows:

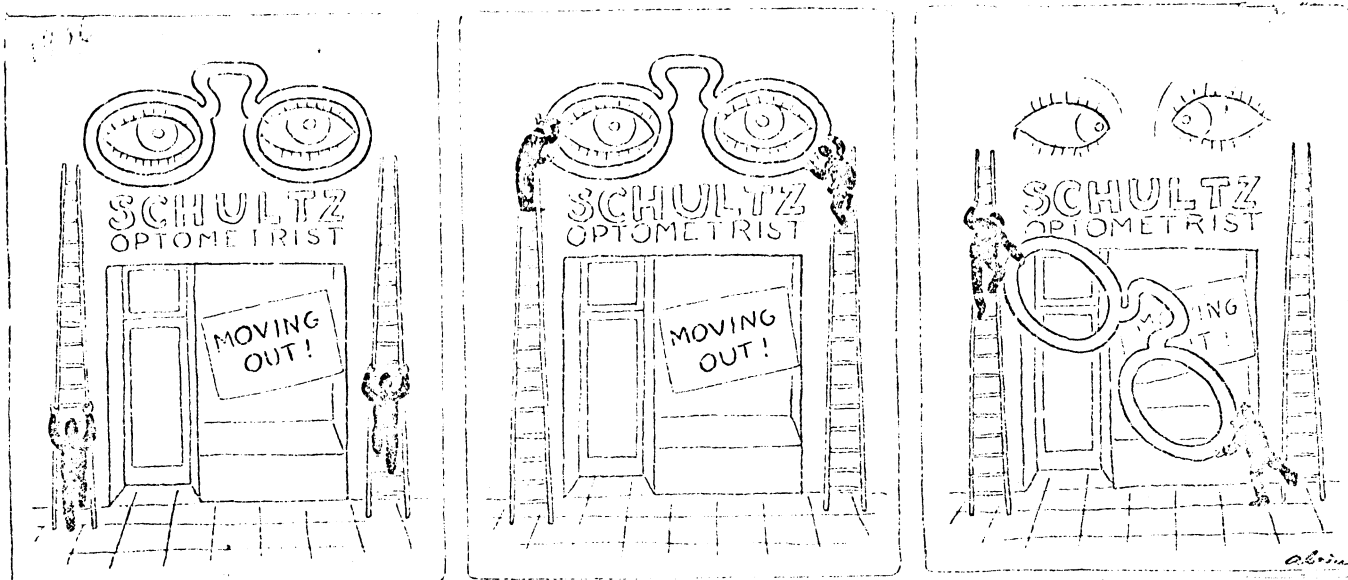
Every person hereafter wishing to practice medicine or surgery or any of the branches thereof or midwifery in any of their departments in this island as well as osteopathy or OPTOMETRY or any of the branches thereof shall apply to said board for a certificate or license so to do.

The second optometric license was issued in Puerto Rico by the Medical Board in 1913 two years after the approval of Law 79 of March 9, 1911 after a previous written and practical examination to the aspirant. All optometric licenses were issued by the Medical Board in the same manner until 1930, when the first Board of Examiners in Optometry was created by Law 78 of 1930. This Law 78 of 1930 was repealed by Optometric Law 80 of 1964, and is the law in force in Puerto Rico now with its amendments. This law can be found in the Blue Book of Optometrists.

Dr. Antonio Pacheco I introduced Optometry in Puerto Rico in 1908 by being the first graduate of Optometry in Puerto Rico. Optometry was first recognized for the first time in Puerto Rico when he obtained the first optometric license in 1909 from the Board of Medical Examiners. Dr. Sixto Pacheco I was a member of the First Board of Examiners in Optometry of Puerto Rico in 1930 by appointment of the Governor of Puerto Rico, Honorable Theodore Roosevelt. Both brothers are dead; Antonio died in 1945 and Sixto in 1950.

Visual Humor

The following 1936 cartoon is from Henry Hofstetter's extensive cartoon collection.



Student Papers

The following papers are more writings from Optometry students. These papers were written as a requirement for the course in Optometric History at Indiana University.

Public Health Legislation in Wisconsin: 1925 by Don Kaiser

Optometry as an organized profession is one of relatively recent development. While the lens fitters and jewelers from whom the modern optometrist can trace his origins were active for several centuries, it has been only since the end of the last century and early part of the twentieth century that optometry became something of the profession as we know it today. To define and more firmly establish the profession in the health field, a necessary requirement was legislation of some sort controlling the practice of optometry. Considering the disagreement between health professionals around the turn of the century over who should in fact be able to practice optometry, it is not surprising that most, if not all, of the legislation controlling the profession was passed only after heavy debate and careful politicking which would, I'm sure, rival the scenes today of the more heated sessions of our legislators at the state and national levels.

Of course laws controlling the practice of optometry were not all passed within a short time; it took several decades for all states in the United States to pass an optometry law. Once passed, the practitioner was guaranteed nothing as many attempts were made at changing or modifying the law with amendments, or by passage of other regulatory statutes. I would like to discuss here the events surrounding one specific law in one state, my home state of Wisconsin. It is an interesting example of what was going on in this country, as far as optometry goes, in the earlier years of this century.

Wisconsin was the 36th state in this country to pass an optometry law, on August 30, 1915. Passage of this law was, like all others, a battle for the optometrists, or opticians as many still called themselves, of the day. Passage of the optometry law regulating who could and could not practice optometry did not end the battle between health professionals of the day and the Basic Science Law of 1925 demonstrates the liveliness of the struggle.

The Basic Science Law was originally proposed in the early part of 1925 sponsored by the Wisconsin State Medical Society. It would have required, in its original form, that all health professionals, doctors, optometrists, dentists, chiropractors, osteopaths, and the like be examined by a state basic science examining board before licensure. A five dollar licensing fee was also to be charged. It would require a high school education and courses beyond that in anatomy, physiology, pathology, and diagnosis. Its goal was to provide the public with protection from deceit, fraud, and quackery. In its early form, this was about all the law said and opposition from optometry was light; what opposition was present was mostly against the five dollar fee. After optometry at about the same time proposed a change in the optometry law which would have prevented doctors accepted to practice after January 1, 1926, from practicing optometry unless licensed by the State Board of Optometry, the Basic Science Bill was amended and its intent became more clear. This prompted the headline below on a bulletin from the Wisconsin Optometric Association:

"Wisconsin Basic Science Law Declared Dangerous to Optometry--All Optometrists Urged to Oppose it--Vigorous and Prompt Word Needed."

It became more evident that the bill's backers were attempting to subjugate optometry. Furthermore, the state board of optometry felt that the implication of the bill was that the board, operating since passage of the initial optometry law, was not competently doing its job of controlling the professional standards and practice of optometry. A common feeling of optometrists was that passage of the bill would remove the moral right to practice in the state and many feared that this could quickly be followed by elimination of the legal right as well.

Optometry responded quickly, and in my opinion, cleverly as well, to the situation. To assure legislators that optometry was just as concerned with improving the professional standards of the practice of refraction, they proposed an amendment to the optometry law, bill 364A, which provided for stricter educational requirements for those involved in refraction. Specifically it required those involved in refraction, including medical doctors, to have attended a regular optometrical school and have had 2000 hours of instruction before being licensed to practice. This amendment was acted on favorably by the Committee on Public Welfare and sent to the assembly. The net effect of this was to give optometry some bargaining power in regards to the Basic Science Law. Initially, physicians strongly opposed the

exemption of optometrists from the law, although dentists had been exempted with no problems. Some publicity of the day reported optometry as the lone opposition to the Basic Science Bill. This was simply not the case as other professions, including chiropractic, also opposed it. Dentistry supported it only because they had been assured of exemption.

What finally resulted was a compromise whereby optometry was excluded from the Basic Science Law and physicians were excluded from Bill 364A, the amendment to the optometry law. Both bills in their revised forms were acted on favorably by the legislature and signed into law by Governor Blaine. Optometry was able, by its careful maneuvering to still be exempted from the medical profession's regulatory statute as well as maintain its appearance in the public eye as concerned, dedicated health professionals that have truly been the backbone of optometry. It really comes down to a case of "fight fire with fire"; if they want to pass a law controlling us, we'll pass law controlling them, an interesting and effective technique in my opinion, well used by our forerunners in optometry to help make our profession what it is today.

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- 2) Optical Journal and Review, (15) 4/2/25; p. 43
- 3) ibid, (15) 4/23/25; p. 56
- 4) ibid, (15) 5/28/25; p. 50
- 5) ibid, (15) 7/2/25; p. 44

The Influence of the Great Depression on the Practice of Optometry In Evansville, Indiana by Scott R. Brizius

It would seem that even before the subject of history was "invented", the originators of the discipline must have prepared the now well known response to the inevitable question of how one could profit from such ceaseless retrospection. Ask any fifth grader and he will most probably answer that understanding the past will help us plan our future. Apparently, man is rather lacking in imagination, and his ultimate course is quite predictable by studying that of his ancestors. For this reason, this paper concerns itself not with hindsight, but rather with foresight. This author, in addition to having a pessimistic opinion of the United States' economic stability, is planning on practicing optometry in Evansville, Indiana, and the following deals predominately, therefore, on the effect of the Great Depression on the same.

A general prespective of the effects of the Great Depression on the practice of optometry in the country as a whole would not, however, be out of order. The professional journals of the period, by their failure to hardly even take note of the general atmosphere of the day, would indicate that things couldn't have been too bad for the optometrist. A brief scanning of the

Optometric Weekly during this time finds the majority of articles dealing with subjects such as education and organization, which by their very nature indicate an optimistic outlook on the profession. Nowhere is there the slightest consideration given to the possible collapse of optometry. The want ads in one issue were not unusual in containing a ratio of eight jobs wanting optometrists to five optometrists wanting jobs.¹ One practice for sale advertised yearly earnings of eight to twelve thousand dollars.² Nevertheless, a few allusions that times were hard can still be found. For example, one author plainly said that business was slow and encouraged support of a "Send the Whole Child to School" campaign as well as pretending to be busy to help the situation.³ Furthermore, the AOA definitely felt the impact of the Depression.

"Just eight months after the 1929 stock market crash and the beginning of the Great Depression, the AOA embarked on its most ambitious financial program by far, one intended to improve the profession's status manyfold. But money could not be raised and there were no spectacular results: the depression won. Revenue from dues lagged, and the administrative branch of the AOA had a difficult time financially for several years."⁴

In 1932, AOA revenues dropped sufficiently to require dipping into the Emergency Fund to pay the upcoming year's attorney expenses.⁵ All in all, it is difficult to draw a firm conclusion from this information.

Fortunately, first hand information is still available concerning the influence of the Depression on the practice of optometry in Evansville. At the American Optical lab, incoming jobs dropped considerably, but not drastically.⁶ Amazingly, through the course of the entire period, not a single employee was dropped.⁷ The implication of this fact is as encouraging as it is obvious.

An optometrist who practiced on Evansville's Main Street during this time, however, is the most direct connection to the period: Dr. J. Royston Victor removes any doubt that optometry in Evansville survived the Depression handily. Although business definitely slowed, "we came thru (sic) the depression very well."⁸ It is not necessary to modify services or price structures, and there was no feeling of increased competition.⁹ In comparison to ophthalmologists and other doctors, "we always did our share..."¹⁰ The Depression, quite clearly, had little effect on the practice of optometry, and Dr. Victor even writes, "...I felt the depression in no way."¹¹

Dr. Victor believes, that, should the U.S. experience a similar collapse in the near future, the influence on optometry would be little different.¹² This, of course, is the issue at hand. One might conjecture that much of the present day optometrists' business is based on superfluous cosmetics, and patients could easily survive with less care. But this author doubts if even a depression could moderate the narcissism of the day. In conclusion, it would seem, even amid poor economic signals, the look ahead for optometry in Evansville is promising--that view seen most clearly over the shoulder.

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Iridology

After seeing the October 1979 OHS Newsletter report on iridology, Jack Weber wrote saying that the January/February issue of 20/20 would include an article he had authored on the present state of the practice of iridology. He writes,

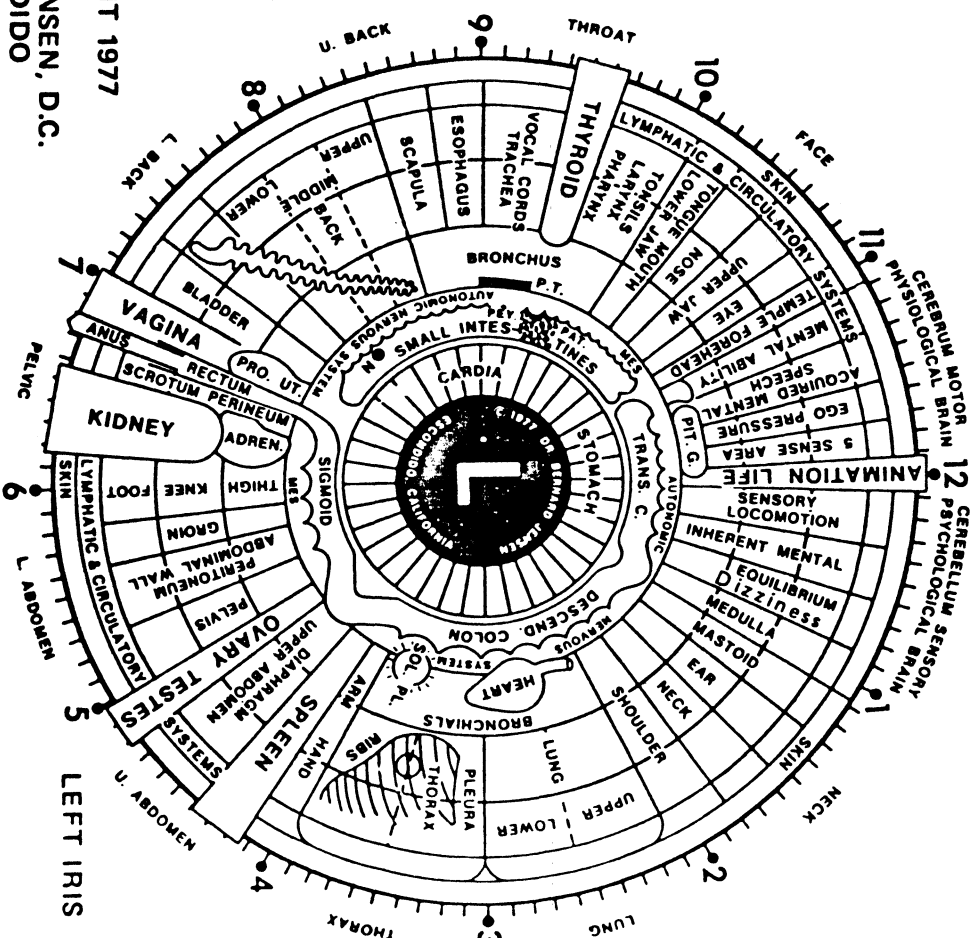
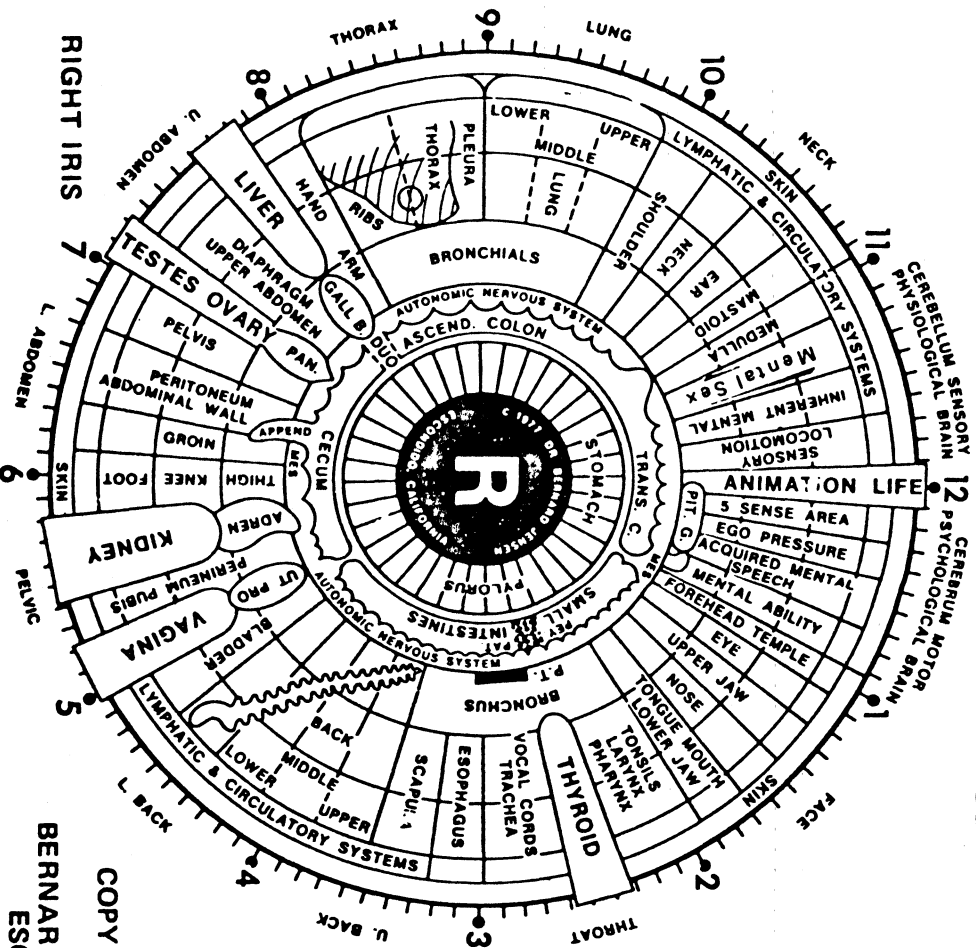
According to legend, when von Peczely (Dr. Ignatz von Peczely) was a youngster of ten years, he accidentally broke one of the legs of his pet owl. Soon after the accident, he noticed the development of a black stripe in the lower region of the owl's iris. Eventually, as the leg healed, the black streak became a tiny dark spot, around which radiated white and gray-shaded lines.

As lore tells it, the incident made a lasting impression on the boy and, years later, while practicing medicine as a graduate physician, he recorded iris changes which occurred in conjunction with the various systemic disorders he treated. In this way, he was able to construct a chart in which each tiny area of the iris represents a different organ of the body. Changes in these small areas, the doctor alleged, could portend the course of bodily disease in that area's corresponding organ. Enclosed is a copy of a modern iridology chart as devised by Bernard Jensen, a chiropractor and naturopathic physician who is leading the resurgence of iridology as a discipline in America.

Interested OHS members can pick up the rest of the story in the January/February 1980 issue of 20/20 magazine.

For the convenience of the readers who cannot gain access to 20/20, Dr. Jensen has given me permission to reproduce the following iridology chart.

CHART TO IRIODOLOGY



IRIDOLOGY CHART developed by Dr. Bernard Jensen, D.C.

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BY
BERNARD JENSEN, D.C.
ESCONDIDO

From court to court:

In my 1948 book on OPTOMETRY I mentioned the 1931 trial of optometrist J.L. Saks, now deceased, of Pretoria, South Africa. Originally I had read it as a mere news item and therefore could not ascertain its significance at the time. It was in fact a cornerstone of legal interpretation which enabled the profession in South Africa to continue its already centuries old right to provide optometric services for gain in spite of a lower court decision that this constituted the practice of medicine. The essential argument in which the lower court magistrate had based his decision was that the "optician...places himself in the same position as a medical practitioner who diagnoses and prescribes ..glasses"!

I learned the latter during a recent visit to Pretoria where I was given the opportunity to read the October 9, 1931, Judgment by Magistrate J.W. Ord in the case of REX versus J.L. Saks, as follows:

The accused is charged on two counts under Section 34 (a) of Act 13 of 1928, in that on the 5th of June and again on the 22nd July, 1931, he did for gain test the eye sight of two different people, and that these acts specially appertain to the calling of a medical practitioner.

The Section of the Act in question reads:

"Any person not registered as a medical practitioner who

- (a) for gain practises as a medical practitioner (whether or not purporting to be registered) or performs any act specially pertaining to the calling of a medical practitioner.

The facts are barely disputed and the essential fact for the Crown to prove is that the acts performed by the accused were such as specially appertain to the calling of a medical practitioner. The fact that he did the work for gain is admitted.

The man whose eyes were tested for glasses went to accused's place of business and the first stated that he wanted glasses - the accused says he specifically named a certain make of glass - whilst the second man says in evidence that he went there to get his eyes tested as he was under the impression that he was going to buy a pair of spectacles. The second man was a police trap.

The defence is that accused followed his usual procedure, viz: to ascertain what kind and strength of glasses (if any) the applicant needed, that he made records of such requirements, got out the frames and lenses etc. (but used no drugs), and that this work occupied him roughly a half hour in each case which was all part and parcel of his business in supplying the best and most suitable glasses. That thereafter when the applicants came back and notified him that they were not going on with the order for glasses he charged them for his services and time occupied up to that stage. The accused further shows that he is a qualified member of the British Optical Association of the Worshipful Company of Spectacle Makers and has taken a course of twelve months study exclusively in optics.

In Webster's Standard Dictionary an optician is described as one skilled in optics or one who makes or deals in optical glasses or instruments. Although there is no legislation in South Africa giving status to opticians, in New Zealand the legislature has made provision for the registration of opticians and defines such work as "the employment of any methods for the estimation of errors of refraction of the human eye and to prescribe or adapt lenses to correct such errors," In South Australia similar legislation has been in force since 1920, and therein optometry is described as "the employment of methods, other than the use of drugs, medicine or surgery, for the measurement of the powers of vision and the adaptation of lenses for the aid thereof". (For these references the Court is indebted to Colonel Mentz appearing for accused). It will be seen from the fore-going that the optician is well entrenched in these countries.

To ascertain whether the work done by accused falls within that specially pertaining to the calling of a medical practitioner, it may be taken that these briefly are attendance, examination, diagnosis, and prescription (or treatment) of the patient. In the case of van Os vs. Rex (T.P.D. 1930 - it was proved that appellant gave electrical treatment for gain and that was held to be not an act specially pertaining to a medical practitioner, but in that case van Os did not examine the patients and say what they were suffering from. I have been unable to find a decided case on all fours with this, but if an optician can be placed in the same category as a dental mechanic then there are ample authorities: for the dentist is protected in a similar manner to the medical practitioner by Section 35 of the same Act.

The primary object of the optician is to make and sell glasses, and in order to do so he tests the eyes of applicants and where eyesight is imperfect he is prepared to sell such glasses as will repair the imperfection, but if glasses are not purchased, by diagnosing the trouble and suggesting (or prescribing) glasses as a remedy and charging therefore an optician, it seems to me, places himself in the same position as a medical practitioner who diagnoses and prescribes but does not make and sell glasses. If the charge made by accused was a substantial part of the work in fitting and supplying the applicants with glasses, then the accused charged for a service he never completed, there being no sales. If not then the fees were for testing the eyes and prescribing glasses for the applicants.

The deduction from the facts forced the Court irresistibly to the conclusion that the accused did perform certain acts specially appertaining to the calling of a medical practitioner and that the charge made by accused was in respect of such diagnosis and prescription and not for work or time employed in the selection of lenses or frames.

Accused has been perfectly open and bona fide about his business and in the circumstances a small penalty will meet the case.

The accused is found guilty on both counts and a penalty of f2.10.0. on each will be imposed.

Mr. Saks' arrest, incidentally, had made no less than 50 column inches (1.25 meter!) of news copy on pages 5 and 6 of the September 30, 1931, issue of the Pretoria News with the four-tier headlines: "OPTICIAN AND DOCTOR, ALLEGATION OF TRESPASS, LOCAL PROSECUTION, Public Said to be Endangered". Then on October 7 the case was given about 16 column inches (40 cm) on page 5 of the Johannesburg Rand Daily Mail with the three-tier headlines "OPTICIAN BEFORE MAGISTRATE, 'Testing Eyes for Gain,' WHY 10/6 WAS CHARGED." Somewhat paradoxically in the adjacent column on the same page was an article on "IMPRESSIONS OF THE ZIONIST CONGRESS" describing the reception of "a huge number of Zionists" by "Mr. and Mrs. J.L. Saks at the Memorial Hall" and the fact that "the chief guest...was welcomed by Mr. Saks."

Again on October 9, judgment day for Mr. Saks, the Pretoria News ran 24 column inches (60 cm) on page 5 with the three-tiered headline "OPTICIAN AND OCULIST, THE DISTINCTION, Conviction in Local Prosecution." That there may have been more newspaper comment I did not ascertain, as I had access merely to the aforementioned three issues which Mr. J.L. Saks had stashed away quite casually, if not a bit carelessly, among many other accumulated items, but which are now in the safekeeping of his sons B.D. and S.J. Saks in the offices of the very prestigious six-optometrist group practice under the name of "J.L. Saks & Sons."

At the time of the trial Mr. J.L. Saks was only about 32 years old. In 1924, just seven years before the trial, he had taken over the establishment of an ophthalmic optician named H.W. Moulang, successor to T.H. Moulang, at 269 Market Street, now Paul Kruger Street, in Pretoria. At the time of the trial, however, he was located on Church Street

Testimony in the trial was made by Dr. S. de Moor, and Dr. T. Wassenaar, both of whom were medical practitioners and eye specialists, a patient named W. van Aswegen, a "professional trap" named J.W. Chamber who had posed as a patient, a clerk named J. Sturdy in charge of the registrar of the South African Medical Council, and of course Mr. J.L. Saks himself.

The patient and the "trap" both testified that Mr. Saks had followed a professional sight-testing procedure. He had recommended glasses for patient Aswegen who later was advised by someone that an oculist should be consulted. Thereupon Mr. Aswegen canceled his order for glasses and paid Mr. Saks just for the "inspection of his eyes".

The "trap," Mr. Chambers, testified that he was similarly examined by Mr. Saks and was advised that glasses would be helpful, but he chose not to get glasses immediately and instead paid Mr. Saks the examination fee of 10s. 6d.

Mr. Saks testified that the examination fee would not have been separately charged had glasses been delivered, but that in any case when a person "wanted to know whether he needed glasses" he would be charged "for work done".

Altogether there was virtually no controversy concerning the facts of the case; the issue was entirely one of interpretation of whether or not Mr. Saks' optometric services were in violation of the medical law. There was no challenging of Mr. Saks' optometric qualifications as a member of the British Optical Association and of the Worshipful Company of Spectacle Makers.

The decision was immediately appealed to the Supreme Court of South Africa where the judges Greenberg and Maritz concurred in the following opinion:

The appellant was charged with contravening Sec. 34 (a) of Act 13 of 1928, in that he "did wrongfully and unlawfully and for gain perform acts specially appertaining to the calling of a medical practitioner, inasmuch as he did then and there for reward test the eye-sight of" certain persons. Two persons are mentioned in the charge-sheet, and the appellant was found guilty on both charges. There is no material difference between the two cases and I propose to refer to only one.

The evidence of the one person mentioned is that he had eye trouble and went to the appellant who has a shop in Pretoria and carries on business as an optician. He told the appellant he wanted his eyes tested, as there was something wrong, and he wanted a pair of glasses. The appellant then tested his eyes by asking him to read out letters at different

distances through different glasses. It is also part of the appellant's procedure that, in addition to this subjective test, he has an objective test, which consists of looking into the patient's eyes and deciding from that examination the amount of correction that is required by means of glasses.

It also appears from the evidence that the particular patient in this case, after arranging to come back for his glasses, was advised to see an oculist; he came back and told the appellant not to proceed with the matter, and the appellant then charged him 10s. 6d. for the work that he had done. Whether there was a binding obligation on the patient to pay the 10s. 6d. is a question on which I express no opinion whatsoever. The question we are concerned with is whether the appellant contravened Sec. 34 (a) of Act 13 of 1928, which makes it an offence for any person who is not registered as a medical practitioner to practise as a medical practitioner or to perform any act specially pertaining to the calling of a medical practitioner, for gain in either case. The element of gain is present in this case. The question we have to decide is whether, in terms of the charge, the appellant has performed any act specially pertaining to the calling of a medical practitioner.

It is not without significance that Sec. 35 (1) (a) provides that any person, not registered as a dentist, who, for gain, practises as a dentist or performs any act specially pertaining to the practice of dentistry, shall be guilty of an offence, and then there is a further provision making it criminal to take impressions of the mouth. There is, therefore, in the section prohibiting the performance of acts specially pertaining to dentistry, a special provision prohibiting this particular act; and the absence of such a provision in the section relating to acts specially pertaining to the calling of a medical practitioner is a matter that is not wholly without significance.

The Attorney-General has contended that it is the object of this legislation to protect the public against unqualified people who attempt to do work which requires a high degree of skill. No doubt this is so, but what we have to do is to construe the Act and ask ourselves whether the conduct in this case amounts to doing an act specially pertaining to the calling of a medical practitioner, which is what is charged against the appellant. I do not propose to go into the matter in any detail, because it seems to me it is entirely covered by the case of *Rex v. van der Heim* (1914, T.P.D. 434). There were two counts in that case. The second count has no application to the present proceedings. But the first count was against an optician who examined the eyes of a patient, supplied a prescription and supplied her with glasses; and the Court held that his conduct did not constitute an act specially belonging to the calling of

a medical practitioner. Those were the words of the Act then in force, and I think they mean the same as the present Act. Not only has this case not been over-ruled, but it appears to have been referred to with approval in a later case of Rex v. Smith (1917, T.P.D. 206). Whether the decision affords the protection which may in fact be required is a matter with which we are not concerned. If it is considered desirable to prevent opticians from doing what was done in the present case, then the legislature must make it the subject of a special prohibition in the same way as there is a special prohibition against a person who is not registered as a dentist taking impressions. It is significant that in spite of the decision in Rex v. van der Heim and in spite of the fact that it is notorious that opticians regularly test the eyesight, the legislature in passing the 1928 Act did not incorporate a special provision prohibiting such conduct.

The Attorney-General also suggested that Rex v. van der Heim was wrongly decided, but that is not a point I am prepared to deal with in the present case. The position is, I think, that this case is covered by Rex v. van der Heim, and we are bound by that decision. This being so, we must hold that the appellant did not contravene the Act.

The appeal must be allowed and the convictions and sentences on both counts set aside.

What is of additional historical interest in this Supreme Court action is the reference to two prior cases, one in 1914 and one in 1917. I have asked Mr. Martin Potgieter of the legal staff if the South African Optometric Association to try to obtain copies of them for our review.

H.W. Hofstetter

Ernst Abbe

Alan York has forwarded a clipping describing the commemorative 20 Mark coin issued this year by the East German government in honor of the physicist Ernst Abbe.

The German Democratic Republic, East Germany, will release a Proof version of the Feuerback commemorative 10 mark; now taking stage center is the .625 fine silver 20 mark commemorating the 75 anniversary of the death of optical pioneer Ernst Abbe. A genius in the field of lenses, refraction and light, Abbe brought discoveries into optics which made possible the telescopes and microscopes of today.

The obverse presents a complex of light beams broken up, reconstructed and fragmented yet again through several Abbe lenses. The reverse differs from the usual by presenting the state emblem in small size at upper left, national designation at center, value and date below.

D.K. Penisten
H.W. Hofstetter, Editors